

§ 10.81

by which the censured, suspended, or disbarred person was licensed to practice.

(b) *Effective/applicability date.* This section is applicable beginning August 2, 2011.

§ 10.81 Petition for reinstatement.

The Director of the Office of Professional Responsibility may entertain a petition for reinstatement from any person disbarred from practice before the Internal Revenue Service or any disqualified appraiser after the expiration of 5 years following such disbarment or disqualification. Reinstatement may not be granted unless the Director of the Office of Professional Responsibility is satisfied that the petitioner, thereafter, is not likely to conduct himself contrary to the regulations in this part, and that granting such reinstatement would not be contrary to the public interest.

EFFECTIVE DATE NOTE: At 76 FR 32311, June 3, 2011, §10.81 was revised, effective Aug. 2, 2011. For the convenience of the user, the revised text is set forth as follows:

§ 10.81 Petition for reinstatement.

(a) *In general.* A disbarred practitioner or a disqualified appraiser may petition for reinstatement before the Internal Revenue Service after the expiration of 5 years following such disbarment or disqualification. Reinstatement will not be granted unless the Internal Revenue Service is satisfied that the petitioner is not likely to conduct himself, thereafter, contrary to the regulations in this part, and that granting such reinstatement would not be contrary to the public interest.

(b) *Effective/applicability date.* This section is applicable beginning August 2, 2011.

§ 10.82 Expedited suspension.

(a) *When applicable.* Whenever the Director of the Office of Professional Responsibility determines that a practitioner is described in paragraph (b) of this section, the Director of the Office of Professional Responsibility may institute a proceeding under this section to suspend the practitioner from practice before the Internal Revenue Service.

(b) *To whom applicable.* This section applies to any practitioner who, within five years of the date a complaint instituting a proceeding under this section is served:

(1) Has had a license to practice as an attorney, certified public accountant,

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or actuary suspended or revoked for cause (not including failure to pay a professional licensing fee) by any authority or court, agency, body, or board described in §10.51(a)(10).

(2) Has, irrespective of whether an appeal has been taken, been convicted of any crime under title 26 of the United States Code, any crime involving dishonesty or breach of trust, or any felony for which the conduct involved renders the practitioner unfit to practice before the Internal Revenue Service.

(3) Has violated conditions imposed on the practitioner pursuant to §10.79(d).

(4) Has been sanctioned by a court of competent jurisdiction, whether in a civil or criminal proceeding (including suits for injunctive relief), relating to any taxpayer's tax liability or relating to the practitioner's own tax liability, for—

(i) Instituting or maintaining proceedings primarily for delay;

(ii) Advancing frivolous or groundless arguments; or

(iii) Failing to pursue available administrative remedies.

(c) *Instituting a proceeding.* A proceeding under this section will be instituted by a complaint that names the respondent, is signed by the Director of the Office of Professional Responsibility or a person representing the Director of the Office of Professional Responsibility under §10.69(a)(1), is filed in the Director of the Office of Professional Responsibility's office, and is served according to the rules set forth in paragraph (a) of §10.63. The complaint must give a plain and concise description of the allegations that constitute the basis for the proceeding. The complaint must notify the respondent—

(1) Of the place and due date for filing an answer;

(2) That a decision by default may be rendered if the respondent fails to file an answer as required;

(3) That the respondent may request a conference with the Director of the Office of Professional Responsibility to address the merits of the complaint and that any such request must be made in the answer; and

(4) That the respondent may be suspended either immediately following the expiration of the period within which an answer must be filed or, if a conference is requested, immediately following the conference.

(d) *Answer.* The answer to a complaint described in this section must be filed no later than 30 calendar days following the date the complaint is served, unless the Director of the Office of Professional Responsibility extends the time for filing. The answer must be filed in accordance with the rules set forth in § 10.64, except as otherwise provided in this section. A respondent is entitled to a conference with the Director of the Office of Professional Responsibility only if the conference is requested in a timely filed answer. If a request for a conference is not made in the answer or the answer is not timely filed, the respondent will be deemed to have waived his or her right to a conference and the Director of the Office of Professional Responsibility may suspend such respondent at any time following the date on which the answer was due.

(e) *Conference.* The Director of the Office of Professional Responsibility or his or her designee will preside at a conference described in this section. The conference will be held at a place and time selected by the Director of the Office of Professional Responsibility, but no sooner than 14 calendar days after the date by which the answer must be filed with the Director of the Office of Professional Responsibility, unless the respondent agrees to an earlier date. An authorized representative may represent the respondent at the conference. Following the conference, upon a finding that the respondent is described in paragraph (b) of this section, or upon the respondent's failure to appear at the conference either personally or through an authorized representative, the Director of the Office of Professional Responsibility may immediately suspend the respondent from practice before the Internal Revenue Service.

(f) *Duration of suspension.* A suspension under this section will commence on the date that written notice of the suspension is issued. A practitioner's

suspension will remain effective until the earlier of the following—

(1) The Director of the Office of Professional Responsibility lifts the suspension after determining that the practitioner is no longer described in paragraph (b) of this section or for any other reason; or

(2) The suspension is lifted by an Administrative Law Judge or the Secretary of the Treasury in a proceeding referred to in paragraph (g) of this section and instituted under § 10.60.

(g) *Proceeding instituted under § 10.60.* If the Director of the Office of Professional Responsibility suspends a practitioner under this section, the practitioner may ask the Director of the Office of Professional Responsibility to issue a complaint under § 10.60. The request must be made in writing within 2 years from the date on which the practitioner's suspension commences. The Director of the Office of Professional Responsibility must issue a complaint requested under this paragraph within 30 calendar days of receiving the request.

(h) *Effective/applicability date.* This section is applicable on September 26, 2007.

[T.D. 9011, 67 FR 48774, July 26, 2002, as amended by T.D. 9359, 72 FR 54555, Sept. 26, 2007]

EFFECTIVE DATE NOTE: At 76 FR 32311, June 3, 2011, § 10.82 was amended by revising paragraphs (a), (c) introductory text, (c)(3), (d), (e), (f), (g), and (h), effective Aug. 2, 2011. For the convenience of the user, the revised text is set forth as follows:

§ 10.82 Expedited suspension.

(a) *When applicable.* Whenever the Commissioner, or delegate, determines that a practitioner is described in paragraph (b) of this section, proceedings may be instituted under this section to suspend the practitioner from practice before the Internal Revenue Service.

* * * * *

(c) *Instituting a proceeding.* A proceeding under this section will be instituted by a complaint that names the respondent, is signed by an authorized representative of the Internal Revenue Service under § 10.69(a)(1), and is filed and served according to the rules set forth in paragraph (a) of § 10.63. The complaint must give a plain and concise description of the allegations that constitute the

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basis for the proceeding. The complaint must notify the respondent—

* * * * *

(3) That the respondent may request a conference to address the merits of the complaint and that any such request must be made in the answer; and

* * * * *

(d) *Answer.* The answer to a complaint described in this section must be filed no later than 30 calendar days following the date the complaint is served, unless the time for filing is extended. The answer must be filed in accordance with the rules set forth in §10.64, except as otherwise provided in this section. A respondent is entitled to a conference only if the conference is requested in a timely filed answer. If a request for a conference is not made in the answer or the answer is not timely filed, the respondent will be deemed to have waived the right to a conference and may be suspended at any time following the date on which the answer was due.

(e) *Conference.* An authorized representative of the Internal Revenue Service will preside at a conference described in this section. The conference will be held at a place and time selected by the Internal Revenue Service, but no sooner than 14 calendar days after the date by which the answer must be filed with the Internal Revenue Service, unless the respondent agrees to an earlier date. An authorized representative may represent the respondent at the conference. Following the conference, upon a finding that the respondent is described in paragraph (b) of this section, or upon the respondent's failure to appear at the conference either personally or through an authorized representative, the respondent may be immediately suspended from practice before the Internal Revenue Service.

(f) *Duration of suspension.* A suspension under this section will commence on the date that written notice of the suspension is issued. The suspension will remain effective until the earlier of the following:

(1) The Internal Revenue Service lifts the suspension after determining that the practitioner is no longer described in paragraph (b) of this section or for any other reason; or

(2) The suspension is lifted by an Administrative Law Judge or the Secretary of the Treasury in a proceeding referred to in paragraph (g) of this section and instituted under §10.60.

(g) *Proceeding instituted under §10.60.* If the Internal Revenue Service suspended a practitioner under this section, the practitioner may ask the Internal Revenue Service to issue a complaint under §10.60. The request must be made in writing within 2 years from the date on which the practitioner's suspen-

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sion commences. The Internal Revenue Service must issue a complaint requested under this paragraph within 30 calendar days of receiving the request.

(h) *Effective/applicability date.* This section is applicable beginning August 2, 2011.

Subpart E—General Provisions

SOURCE: T.D. 9011, 67 FR 48774, July 26, 2002, unless otherwise noted.

§ 10.90 Records.

(a) *Roster.* The Director of the Office of Professional Responsibility will maintain, and may make available for public inspection in the time and manner prescribed by the Secretary of the Treasury, or delegate, rosters of—

(1) Enrolled agents, including individuals—

(i) Granted active enrollment to practice;

(ii) Whose enrollment has been placed in inactive status for failure to meet the requirements for renewal of enrollment;

(iii) Whose enrollment has been placed in inactive retirement status; and

(iv) Whose offer of consent to resign from enrollment has been accepted by the Director of the Office of Professional Responsibility under §10.61;

(2) Individuals (and employers, firms or other entities, if applicable) censured, suspended, or disbarred from practice before the Internal Revenue Service or upon whom a monetary penalty was imposed;

(3) Disqualified appraisers; and

(4) Enrolled retirement plan agents, including individuals—

(i) Granted active enrollment to practice;

(ii) Whose enrollment has been placed in inactive status for failure to meet the requirements for renewal of enrollment;

(iii) Whose enrollment has been placed in inactive retirement status; and

(iv) Whose offer of consent to resign from enrollment has been accepted by the Director of the Office of Professional Responsibility under §10.61.

(b) *Other records.* Other records of the Director of the Office of Professional Responsibility may be disclosed upon